



MINUTES
PLANNING COMMISSION MEETING
1300 NE Village Street
Fairview, OR 97024
Tuesday, June 11, 2013

PRESENT: Steve Kaufman, Chair
Jan Shearer, Vice-Chair
Jack McGiffin
Gary Stonewall
Ed Jones
Julius Arceo
Gary Stonewall

ABSENT: Keith Kudrna

STAFF: Allan Berry, Public Works Director
Erika Fitzgerald, Development Analyst
Paul Elsner, City Attorney
Devree Leymaster, City Recorder

1. CALL TO ORDER

Chair Kaufman called the meeting to order at 6:30pm.

2. CITIZENS WISHING TO SPEAK ON NON-AGENDA ITEMS

Chair Kaufman inquired if any person would like to speak on a non-agenda item, hearing none moved to review of minutes.

3. REVIEW AND ADOPT MINUTES

May 28, 2013 minutes approved as written by consensus.

4. PUBLIC HEARING

13-20-CPA, ORD 5-2013

Chair Kaufman read the legislative hearing statement and cited the applicable criteria. There was no disclosure of ex parte contact, conflict of interest, or bias. No objections were noted. City Attorney Paul Elsner stated the disclosure of ex parte contact or bias is not required for a legislative hearing; only applies to quasi-judicial matters.

Development Analyst Erika Fitzgerald presented the staff report. In 2001, the property located on the northwest corner of Sandy Blvd and 223rd (tax lot 1N3E28AD05300) was rezoned from A-1-B to Corridor Commercial, along with other properties, per Ordinance 6-2001; however, the comprehensive plan designations were not changed. In 2004, during periodic review the zoning and comprehensive plan inconsistencies were identified and corrected, except for this property. Staff believes it was overlooked in the 2004 process. The proposed amendment corrects the scrivener's error making this property's comprehensive plan designation consistent with the zoning designation.

Vice Chair Shearer requested clarification of the term scrivener's error. City Attorney Paul Elsner responded it is a non-substantive error. In this situation the wrong color was added on the map.

Chair Kaufman clarified the amendment does not change the property's zoning designation, only corrects the comp plan map. Staff responded yes.

Chair Kaufman inquired if any person would like to speak in favor, opposition, or neutrally regarding the proposed amendment. William Rasmussen, 111 SW Fifth Avenue, Portland, Oregon, a land use attorney representing the property owner, MacDonald family, spoke in opposition of the amendment. Mr. Rasmussen presented a written letter to Planning Commission and to staff. Mr. Rasmussen contended when there is a conflict between a zoning and comp plan map, the comp plan map should prevail and the zoning should be corrected to match, not vice versa. Mr. Rasmussen outlined the proposals procedural deficiencies (i.e. improper noticing) and substantive deficiencies (i.e. noncompliance with state wide planning goals) as identified in the letter. Mr. Rasmussen summarized the proposed comp plan map amendment to re-designate the property commercial would conflict with the residential character of the neighborhood, hurt property values, and violate state and local law. A more accurate "fix" is to make the property residential.

Mr. Mike File, Fairview Terrace Homeowner Association, stated he was not aware of the proposed change until Mr. Rasmussen's firm contacted him. The Fairview Terrace development is adjacent to the MacDonald property. When Fairview Terrace was being built in 2003-2005 the subject property was believed to be residential. Property owners purchased residences in Fairview Terrace with the understanding the property would be developed as residential. Residents and the Fairview Terrace Homeowner Association oppose high impact, high use development of the property.

Mr. Tom MacDonald, PO Box 994, Madras, Oregon, owner of the subject property, stated through action of the City Council and unbeknownst to them the City changed the property's zoning from residential to commercial. The decisions in 2001 and 2004 corrected other zoning and map errors, but not theirs.

Mr. Joe DeJager, One SW Columbia, Ste. 950, Portland, Oregon, a realtor representing Mr. MacDonald, stated the property's topography slopes northward and it would be difficult to develop commercially. The property is better suited for residential/multi-family development. There is more demand and the probability for residential development is higher. Mr. DeJager requested the zoning be corrected to match the comp plan.

Mr. Leland Jakeway, Larkspur Lane, Fairview, Oregon, a homeowner in Fairview Terrace, stated he is concerned for the type of businesses and traffic impacts if the property remains commercial. When he purchased his home he was told the property was residential and would be developed as such. Mr. Jakeway requested the zone be changed to residential.

Commissioner McGiffin inquired what type of development would benefit Fairview. City Attorney Elsner responded the Commission can direct staff to review the issue. The property is currently zoned corridor commercial and the property owner can request a zone change.

Commissioner Shearer stated she recalled the property as never being zoned residential, but rather a non-conforming use. It has been designated commercial since 2001.

Mr. MacDonald responded the property was originally farm land. It was then designated an A-1-B zone with a commercial overlay. In 1990, he received a letter from Development Director John Anderson indicating he believed the property's designation was not legal. The property was

then designated A-1-B. The LID program began assessing the property at an A-1-B rate. Mr. MacDonald believed the property to have a residential designation. When a potential buyer contacted the City regarding development options he discovered the property had a commercial designation. The sale fell through and Development Director John Gessner directed Development Analyst Lindsey Nesbitt to research the property's zoning history.

Commissioner Jones reiterated the amendment is not for a zoning re-designation, but to correct an error that was not corrected between 2001 and 2004 with other property errors. The request is to correct an improper comp plan map designation. The property owner has never submitted a requested for a rezone and the current zone does allow for mixed use development.

Mr. MacDonald responded he has never applied for a rezone, but he never requested the original rezone. The zone change was made by City Council.

Commissioner Arceo inquired what action is needed to initiate a rezone. Staff responded the property owner needs to submit an application for a rezone.

Commissioner Jones moved to close the public hearing and Commissioner Stonewall seconded. The motion passed unanimously.

Commissioner Jones proposed not forwarding a recommendation to City Council until more research could be done and presented. Vice Chair Shearer agreed.

Commissioner McGiffin inquired what the process is to approve a rezone. Staff responded the property owner's application for a rezone would be reviewed by Planning Commission and City Council for consistency with the applicable code for a rezone. Vice Chair Shearer commented a comp plan amendment may also be necessary. The current comp plan identifies the property as medium density residential. Any zoning change other than medium density residential would require the comp plan designation be changed.

Commissioner Stonewall moved to refer the matter back to staff for additional research and Commissioner Jones seconded. Chair Kaufman requested a roll call. The motion passed unanimously.

Mr. File requested the Fairview Terrace Homeowners Association (HOA) be notified of future meetings. Staff responded the HOA would be notified, as well as, any attendee who signed in and provided a mailing address on the public attendance record.

5. STAFF UPDATES

At the request of the land owner (Townsend), staff is looking at the feasibility and options to relocate the creek that runs through the property on the south side of Sandy, east of 223rd Ave. The creek and correlating natural resource protection area make the property less than desirable for commercial development. Staff is researching if the property's marketability and usability can be increased, while enhancing and restoring the natural resources.

Public Works Director Allan Berry reported staff had met with Leland Consulting Group regarding an economic feasibility study for the river front. Leland will provide recommendations for study approach and options.

Development Analyst Erika Fitzgerald will begin her leave on June 28, or prior.

Development Analyst Lindsey Nesbitt's last day was June 7. Ms. Nesbitt accepted a Senior Planner position with Multnomah County. Notice for the vacant Development Analyst position is posted and closes on June 13. Staff is meeting with a Planning Consultant to assist with any applications received in the interim.

6. COMMISSION UPDATES

Commissioner Stonewall inquired about the status of the temporary fencing around the construction area at Alexander's OTB. Staff responded the business owner recently reinstated the building permit. The permit is active and staff believes the owner is actively working with the Health Dept. to correct the issues.

Vice Chair Shearer inquired about the status of the Code Enforcement program. Staff responded the program is currently handled by the Police Dept. A part-time contracted staff person from the City of Gresham is scheduled to begin June 17. The program will return to Public Works, be under the supervision of Development Analyst Erika Fitzgerald, and will remain complaint based.

7. TENTATIVE AGENDA: JUNE 25, 2013

2013-13-ZA, ORD 6-2013
Final Plat Filing Extension

8. ADJOURNMENT

Meeting adjourned by consensus at 7:36PM.

Steve Kaufman, Chair



Devree A. Leymaster
City Recorder



Date: 6/25/2013